US Army Corps
of Engineers

Detroit District

Public Notice

Applicant: City of Marquette

In Reply Refer To: Corps File No. LRE-2010-00324-38
MDNRE File No. 10-52-0037

Date: September 3, 2010
Expires: September 23, 2010

Proposed Bulkhead, Boardwalk and Riprap in Lake Superior at Marquette, Michigan

Applicant: City of Marquette, 300 West Baraga Avenue, Marquette, MI 49855-4712

Project Location: The site is located in Lake Superior, offshore 51017 & 51019 Lake Park Road, New Buffalo, Berrien County, Michigan (Township 8S, Range 21W, Section 17).

Federal Authority: The applicant has applied for a Department of the Army permit under Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

State Authority: Section 401 of the Clean Water Act requires that all discharges of dredged or fill material must be certified by the State as complying with applicable effluent limitations and water quality standards. This public notice serves as an application to the State of Michigan Department of Natural Resources and Environment (MDNRE), Land and Water Management Division and constitutes its public notice as required by Section 401 of the Act. Coastal Zone Management Certification (or waiver thereof) is required from the State of Michigan if this proposed activity would occur within the designated coastal zone.

Project Description: As shown on the attached plans, the applicant proposes to:

Construct 175 linear feet of steel sheet pile bulkhead a maximum of two feet waterward of the existing bulkhead at north end of the site. Discharge approximately 162 cubic yards of clean fill material in a 175' long by 2' wide by 12.5' deep area as backfill for the new bulkhead.

Construct a 470' long by 20' wide boardwalk with railing supported by concrete footings parallel to the shoreline, extending over Lake Superior. Discharge approximately 67 cubic yards of concrete for concrete footings.

Discharge approximately 167 cubic yards of earthen material in a 50' long by 20' wide by 4.5' deep area below the Ordinary High Water Mark beneath the proposed boardwalk. Discharge approximately 1,230 cubic yards of stone riprap on geotextile fabric extending along the shoreline beneath the proposed boardwalk in a 475' long by 15' by average 4.5' deep area immediately waterward of the Ordinary High Water Mark (OHWM). The stone riprap will be placed in front of existing rock filled cribs and an existing sheet pile wall.

Install 24" diameter concrete pipe 26' long to convey treated stormwater into Lake Superior with the end section of the pipe being below the OHWM of Lake Superior. All captured storm water from the adjacent development will flow through the storm water treatment unit before reaching the lake. The submerged 24" outlet pipe will also act as an inlet pipe for irrigation system wet wells. The storm manhole connected to the twenty four inch outlet pipe has branch pipes running north and south out of it. These pipes, also below lake level, will in turn feed two manholes that will serve as wet wells for small irrigation pumps. From the overflow outlet of the pond a bank of (4) 12-inch diameter pipes will carry the pond water to a water fall feature cascading to Lake Superior. These four pipes will end at a concrete headwall measuring three feet high by twelve feet long, situated above the level of the Ordinary High Water Mark of the lake. The four pond outlet pipes and headwall can be seen on the Section B-B drawing.

The purpose of the project is to construct a seawall, inlet/outfall pipe, and boardwalk for public recreational use.

Avoidance & Minimization: The applicant has stated the following concerning avoidance and minimization to Waters of the United States: "For purposes of discussion here we will break the project into two sections: seawall and boardwalk. The seawall portion of the project will replace an existing sheet pile wall which is failing. If left as is, a hundred and eighty foot long by seven feet tall embankment being held back by the sheet pile would eventually fall into the lake. We propose to place a new sheet pile wall just waterward of the old and leave the old sheet pile in place undisturbed to continue to contain existing contamination. The project site is an old tank farm with known contaminated soil. We feel placing the new wall as close to the old as possible and leaving the old in place avoids ill affects to the lake and provides minimum impact.

The boardwalk will be built along the waters edge which is currently defined in part by a line of sheet pile and further by soil covered rock filled timber cribs. The only impact to the lake along this portion of the project is placement of large rip rap. We feel the rip rap is necessary to stop on going erosion and to help dissipate wave energy under the overhang of the boardwalk. Sheet pile in lieu of rip rap was considered here, however, we felt waves from storms would splash upwards and damage the boardwalk overhang. Also this area will see increased boating activity and waves rebounding off sheet pile would make for watercraft difficulties."

<u>The Corps has not verified the adequacy of the applicant's avoidance and minimization statement at this time</u>.

Compensatory Mitigation: The applicant has stated the following concerning compensatory mitigation for unavoidable impacts to Waters of the United States:

Mitigation is not necessary or appropriate for the proposed work because: "On the north edge of the project a sheet pile seawall is leaning, bent and failing. Our project will place a new wall as close to the old as new and stabilize and restore the shore. Due to the extremely small footprint of the work and the fact we are preventing a large embankment from sloughing into the lake we feel compensatory mitigation is not warranted here.

The east side of the project will see placement of a boardwalk to invite the public to the waters edge. The existing conditions here are similar to the north side of the project. Part of the shore here is bounded by failing sheet pile as described above. The rest of the shore is experiencing erosion of material from off the top of rock filled timber cribbing which defines the waters edge. Our project will armor this shore and stop existing erosion which is detrimental to the lake environs. Again due to the small footprint of the work and its benefits of restoring the shore and preventing erosion we feel compensatory mitigation is not necessary."

The Corps has not verified the adequacy of this mitigation proposal at this time.

Other Authorizations:

The applicant has either received or requested the following governmental authorization: MDNRE Permit Number: 10-52-0037-P, Issued on: July 21, 2010

Comments: We are publishing this notice in compliance with Title 33 Code of Federal Regulations Parts 320-332. Comments on the project should be submitted in writing and postmarked or delivered by the expiration date of this public notice. Comments of a positive or negative nature may be submitted. All responses must refer to file number LRE-2010-00324-38(10-52-37). We will interpret a lack of response as meaning that there is no objection to the permit application. Comments should be filed with:

a. Charles M. Simon, Chief, Permit Evaluation Western Branch, Regulatory Office, Detroit District, Corps of Engineers, 477 Michigan Avenue, Detroit, Michigan 48226-2550. Comments may be e-mailed to: james.d.luke@usace.army.mil, but must include a name and mailing address.

Public Hearing: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

Evaluation: The decision whether to issue the Department of the Army permit will be based on independent conclusions of the Corps of Engineers and the Michigan Department of Environmental Quality, respectively, after evaluation of the probable impact of the proposed activity on the public interest. These decisions will reflect the national concerns for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

This activity involves the discharge of dredged or fill material into waters of the United States. Therefore, the U.S. Army Corps of Engineers' evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator of the Federal Environmental Protection Agency, under the authority of Section 404(b)(1) of the Clean Water Act.

Endangered Species: We will review this application for the potential impact on threatened or endangered species pursuant to Section 7 of the Endangered Species Act as amended. We are not aware of the presence of any listed species or critical habitat at or in the vicinity of the proposed worksite. We invite information and/or comments regarding the potential presence of, or impacts to, any listed species or critical habitat.

Cultural Resources: The District Staff has reviewed existing information on historic properties potentially affected by the proposed project, including the National Register of Historic Places. The permit area consists of a dilapidated crib wall along the shoreline that was constructed around 1870. The existing crib wall will remain intact with modifications made in areas that are used to support the boardwalk. Due to the dilapidated condition of the crib wall and since the cribs are being preserved, little likelihood exists for the proposed project to impinge upon a historic property. The District Engineer invites responses to this Public Notice from federal, state and local agencies, historical and archaeological societies, Indian tribes, and other parties likely to have knowledge of or concerns with historic properties in the area.

Additional Information: Questions concerning this application may be directed to James D. Luke at the Corps of Engineers address listed above, or telephone number 313-226-3396.

FOR THE DISTRICT ENGINEER:

Charles M. Simon
Chief, Permit Evaluation Western Branch
Regulatory Office